

Small Refuses To Be Arrested; Pleads Office

Holds If He Surrenders and Gives Bond He Would Be Giving Up Constitutional Rights as the Governor

Case To Be Argued To-day

Foes Say Embezzlement, Conspiracy Charges Will Be in Force End of Term

Special Dispatch to The Tribune
SPRINGFIELD, Ill., July 21.—Governor Len Small refused to submit to arrest to-day on warrants issued, following the return yesterday of three indictments by the Sangamon County grand jury, charging him with embezzlement of state funds and conspiracy. Arguments on the Governor's constitutional right in the matter will be heard to-morrow morning, according to an announcement this afternoon in Judge Smith's court.

An opinion upon which Governor Small based his action, with precedent set by Governors Altgeld and Tanner, who refused to submit to arrest following indictments on charges which died with the indictments, was prepared and signed by Attorney George B. Gillespie, of Springfield; Joseph W. Eifer, of Bloomington, former Governor of Illinois, and James M. Graham, former Representative from this district. Mr. Graham appeared in court with the opinion and announced the decision of the Governor to abide by the advice of his attorneys.

The attorneys take the position that Governor Small cannot be arrested while Governor, and that if he surrenders and gives bond it will be a surrender of his rights and will establish a precedent.

Warrants Continue in Force

This leaves a tactical victory for the state, for the warrants still stand against Governor Small. It is asserted that should the court rule in favor of the position taken by counsel for Governor Small the indictments would still stand against him and would be in force when his term of office expires.

The standing of proposed civil suits against Governor Small will not be affected, it is said. The position taken by Governor Small and his attorneys is considered an unwise one by some lawyers and politicians here. It is believed it will be construed by the people as an attempt to avoid trial, which is contrary to former statements said to have been made by Governor Small to the effect that if he were indicted he would demand an immediate trial.

Lieutenant Governor Sterling announced in Rockford to-day that he would be here to-morrow to arrange for his bond on the three indictments. Judge Smith reduced the bond of Verne E. Curtis to \$50,000. When the indictments were returned yesterday the bond was fixed by the court at \$50,000 on each indictment. The order of the court to-day permits the \$50,000 bond to stand for both indictments against Curtis. Ernest Curtis, a brother, and Mrs. E. B. Griffin, a sister, both from Grant Park, stand the bond for Curtis.

Four Indictments Returned

Four indictments were returned. They covered charges of fraud by the three men during the terms of Small and Sterling in the State Treasurer's office, between 1917 and 1921.

The first indictment charged the Governor, Lieutenant Governor and Curtis jointly with embezzlement of \$700,000. A separate indictment against Small charged him with embezzlement of \$500,000, while Lieutenant Governor Sterling was individually charged with embezzlement of \$700,000. The fourth indictment charges the three with conspiracy and confidence game, involving \$2,000,000 interest on state funds.

The indicted men are accused of having appropriated for their own use the \$2,000,000 mentioned in the indictments—interest money earned by the State Treasurer's office on state money lent during the terms of Small and Sterling as state treasurers. The Grant Park "paper" bank, which was owned by Curtis and a brother, features in several counts, although other acts are also charged.

There is considerable discussion to-day as to just what would happen if Small and Sterling were convicted. It was pointed out that ouster proceedings probably would be the natural result of the conviction of Illinois, which declares that no person who owes the state money is eligible to hold a state office.

Probable Successor Discussed

The next Governor of Illinois, should both Governor Small and Lieutenant Governor Sterling be ousted, will be one of three men; which one opinions of lawyers differ. The Supreme Court of the state probably would have to decide which of the present Governor and Lieutenant Governor lose out. Preponderance of legal authorities favors the belief that State Senator William S. Jewell, of Lewistown, had succeeded to the Governorship through propped from his present post of President pro tempore of the state Senate. Others hold that former Governor Frank O. Lowden would be entitled to resume his old place as head of the state government on the ground that a successor had never qualified for the office. There are not a few lawyers who assert that James Hamilton Lewis, the Democratic candidate for Governor last fall, would

stand next in line for the Governorship. However, friends of former Governor Lowden and former Senator Lewis declared to-day their belief that neither would make any efforts to obtain the Governorship by inheritance. Some say that neither would accept the post. It is believed that Senator Jewell would be the sole heir if Governor Small and Lieutenant Governor Sterling are forced to relinquish their official positions.

Hotel Suicide Leaves \$20 to Pay for Room

Clerk Who Came Here From Dallas, Tex., Goes to the McAlpin to End His Life

William F. Easton, thirty-five years old, a clerk, formerly of Dallas, Tex., committed suicide in the Hotel McAlpin yesterday by shooting himself in the right temple. His wife, Mrs. Marion Easton, 2666 Elmore Place, Brooklyn, refused to talk after identifying the body.

According to House Detective Deniston, of the McAlpin, Easton entered the hotel at 11 o'clock Wednesday night. There was nothing unusual in his actions. Failure on the part of the maid to receive a response to repeated knockings yesterday afternoon led to an enforced entrance of the room. Easton was found on the floor dead, clothed with the exception of his coat.

On a dresser were a \$20 bill and a note addressed to his wife, asking her to pay for the room. The bed had not been disturbed.

Mrs. Easton admitted she had seen her husband Wednesday night, but declined to say anything further.

Carl Winkler, 620 Sixth Avenue, took charge of the body.

The Stage Door

"Sonny" George V. Hobart's play with melodies by Raymond Hubbard, which the Selwyns will present at the Cort Theater August 15, will have a preliminary opening in Stamford, Conn., on July 29. During the Stamford engagement the entire company will be the guests of Emma Dunn, the featured member of the cast.

Josephine Victor is booked for Proctor's Mount Vernon Theater during the week of August 14.

Bird Millman, who will be seen in the "Greenwich Village Follies of 1921," has had an entirely new act devised for her by John Murray Anderson.

Wallace Edinger will have the role of John Hamilton, a book agent, in "Nobody's Money," which L. Lawrence Weber will present at the Longacre Theater during August.

"The Full Cup," by Theresa Helburn, will open under the direction of Marc Klaw, Inc., November 7, in Atlantic City.

Tom Powers is the latest Morocco recruit for "Love Time," which will hereafter be known and billed as "Visions and Dreams."

Seventy-five members of the Women's Auxiliary of the Hudson Park Chapter of the Red Cross will attend a night's performance of "Just Married."

John Wray has been cast for an important part in "The Night Cap," opening at the Thirty-ninth Street Theater on August 3.

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SUBERT 44th St. and B'way. 8:30. MATINEE TO-MORROW. 2:30. 5:30. 8:30. **THE NEWLY JUST MARRIED** FARCE WITH VIVIAN MARTIN AND LYNNE OVERMAN.

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MOROSCO 43rd St. and B'way. 8:30. MATS. WED. & SAT. at 2:30. **THE DRAMATIC SMASH** **THE BAT** SEATS SELLING 8 WEEKS AHEAD.

CENTRAL 47th St. and B'way. 8:30. MATS. WED. & SAT. at 2:30. **WILLIAM FOX** **YANKEE** IN KING ARTHUR'S COURT. Staged by Edmund J. Flynn. POP. PRICES.

PARK THEATRE 23rd St. and B'way. 8:30. MATS. WED. & SAT. at 2:30. **WILLIAM FOX** **OVER THE HILL** Staged by Will Carleton. Directed by Harry Millard.

ASTOR 42nd St. and B'way. 8:30. MATS. WED. & SAT. at 2:30. **THE GOLDEN NEST** LYRIC 42nd St. and B'way. 8:30. MATS. WED. & SAT. at 2:30. **QUEEN OF SHEBA** Directed by J. Gordon Edwards.

STEEPLECHASE 42nd St. and B'way. 8:30. MATS. WED. & SAT. at 2:30. **THE FUNNY PLACE**

Burns Calls Series Plot Players' Idea

(Continued from page one)

men who had been mentioned by Burns in his direct testimony. They included most of the infield and two outfielders of the regular White Sox team.

"Were all those men in the hotel while this practice was going on?" he repeated.

"I don't know about the practice," said Burns, "but they were in the hotel when I got there."

"Were Weaver, Rieberg and Schalk present?"

The mention of Ray Schalk, whose name had never been connected with the scandal, caused a murmur in the courtroom. Burns answered calmly: "Yes, they were there."

"You are sure of it?"

"Yes."

Assistant State's Attorney Tyrrell leaped from his chair.

"Did you mean to name Schalk, Mr. Nash?" he inquired with some heat.

"No, of course not," returned Attorney Nash. "I meant Felsch. But I suppose that if I had asked this witness if Charles A. Comiskey was in the room he'd have said 'Yes.'"

The examiner pinned Burns down to an admission that he had not seen the players after the first game, as he stated in yesterday's testimony.

"Didn't you say that you saw them after the first game?" he demanded.

"I ain't sayin' I did," replied Burns.

"Answer yes or no."

"I'll answer as I please."

Mr. Nash then had portions of the record read, showing that Burns had been asked by Prosecutor Gorman regarding a meeting after the first game and that he had described such a meeting in detail. At this point Mr. Nash announced his intention of impeaching the witness as a perjurer.

Several sensations developed as Attorney Alcorn took over the examination from Mr. Nash. The attorney asked Burns if Billy Maharg, the Philadelphia who has been closely connected with Burns in all his dealings with the State's Attorney's office, was really "Peaches" Graham, former Cub catcher. Burns looked startled, but denied the allegation.

Questions were interjected at odd points of the inquiry to bring out the details of the old feud between Johnson and Comiskey. Attorney Alcorn started the court at one stage of the examination by asking the witness point blank if a part of his contract with the State's Attorney's office for his testimony in the case had not included an agreement whereby Maharg was to sue Comiskey for the \$10,000

posted for the conviction of the men involved in the scandal.

Burns smiled and answered, "No."

Details New York Meeting

The examination which developed the episode in New York was conducted by Assistant State's Attorney Gorman, and follows:

Q.—Mr. Burns, I am going to question you concerning certain meetings you attended at the Hotel Ansonia in New York a few weeks before the world's series. You are to name only the persons actually present at the conferences. Under no circumstances will you repeat the names of other persons whose names may have been mentioned. When did you meet Cletotte in New York prior to the world's series of 1919? A.—On September 16.

Q.—What did he say? A.—He said that the Sox would win the pennant and that he had something good for me.

—Did he tell you what that something good was? A.—No.

Q.—When did you next meet him? A.—On the 18th.

Q.—Who was present? A.—Cletotte and Gandell.

Q.—Was anything said? A.—Candell said: "If I could get \$100,000 I would throw the world's series."

Q.—Who else was present? A.—Maharg.

Q.—What did you say? A.—I said I would see what I could do.

Q.—How soon after that conversation did you meet Arnold Rothstein? A.—About a week.

Q.—After that talk whom did you first meet? A.—Attel, Bennett and Chase.

Q.—Where was this meeting? A.—At the Ansonia Hotel.

Q.—Who else was present at that time? A.—Jean Dubuc and Fred Toney.

Q.—What did Attel say? A.—He asked me to go to Cincinnati to see the players. Bennett also wanted to see what kind of a deal he could make with them. I told him I would go and see.

Q.—Did Bennett say anything about whom he represented? A.—Yes, he said he represented Rothstein and was handling the money for him.

Q.—Was anything else said? A.—I asked Attel how it was that he had been able to get Rothstein in when I had failed.

Q.—What did he say? A.—He said he had once saved Rothstein's life, and that the gambler was under obligations to him.

Childless Marriages Lead to Divorce Court

British Records Show No Offspring in 40 Per Cent of Cases

LONDON, July 1. (By Mail).—Childless marriages figured in more than 40 per cent of British divorce suits in 1919, according to The London Daily Mail. The statistics, given in a White Paper issued yesterday, show that in 24 per cent of the suits the marriages had lasted for less than five years. Approximately this group would include all the marriages contracted during the war which gave rise to proceedings. 34 per cent of the marriages had lasted for five to ten years and 42 per cent over ten years.

Twenty-one per cent of the parties

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Twenty-one per cent of the parties

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